

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Applicant: | Kenneth T. Heruth and Keith A. Miesel | Confirmation No. | 8232 |
| Serial No.: | 10/825,964 | Filed: | April 15, 2004 |
| Examiner: | Fangemonique A. Smith | Group Art Unit: | 3736 |
| Docket No.: | 1023-360US01 | Customer No.: | 28863 |
| Title: | DETECTING SLEEP | | |

CERTIFICATE UNDER 37 CFR 1.81 hereby certify that this correspondence is being transmitted via the United States Patent and Trademark Office electronic filing system on July 30, 2009.

By:

Name: Shirley A. Betlach

NOTICE OF APPEAL

MAIL STOP AF
Assistant Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

In accordance with 37 C.F.R. § 41.31, Applicants hereby appeal to the Board of Patent Appeals and Interferences from the final rejection of claims 20-23, 26-33, 35-38, 40, 43-45, 53, 55, 57-62, 72 and 73 of the above-identified application, as set forth in the Office Action mailed March 23, 2009.

Please charge Deposit Account No. 50-1778 in the amount of \$540.00 to cover the required fee for filing this Notice of Appeal as set forth under 37 C.F.R. § 41.20(b)(1).

Also enclosed is a Petition for one-month extension of time to respond to the final rejection, thereby extending said period of response from July 9, 2009 to August 9, 2009.

Please charge any additional fees or credit any overpayment to Deposit Account No. 50-1778.

Date:

7-30-09

By:

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